

**REMARKS**

The present communication is responsive to the Office Action mailed October 14, 2009 (hereinafter "Office Action"). Claims 34-37 are cancelled. Claims 30, 32, 34-36, 41, 42, and 60-64 are pending and rejected under 35 U.S.C. §103(a).

As set forth above in the amendment to the claims, Applicants amend claims 30, 41, 61 and 63. In light of the amendment and the remarks to follow, reconsideration and allowance of this application are respectfully requested.

The Examiner made the rejection of claims 30, 32, 41 and 60-64 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,289,314 ("*Matsuzaki*") in view of U.S. Patent No. 6,839,851 ("*Saitoh*") and U.S. Patent No. 5,400,402 ("*Garfinkle*").

Independent claim 30 has been amended. The support for the amendment can be found in FIG. 8, 9 and paragraphs [0096]-[0099] in the specification. The amended independent claim 30 recites in part the following:

"obtaining, at a first information processing apparatus, content data to be broadcast by digital broadcast transmission, the content data including at least one of video content data or audio content data;

generating discount charge data specifying a charge for use of the content data, if the use of the content data at a second information apparatus will be discounted, the use including at least one of reproducing or copying the content data, wherein the charge decreases with a number of times the content data is used;

inserting the discount charge data into a control message

multiplexing the content data with the control message by the first information processing apparatus to produce multiplexed data and transmitting the multiplexed data via the digital broadcast transmission;

receiving and demultiplexing the multiplexed data by the second information processing apparatus to receive the control message and the content data;

recording the received content data onto a recording medium by the second information processing apparatus;

using the recorded content data at the second information processing apparatus; and

charging for the use of the content data at the second information processing apparatus in accordance with the received discount charge data, wherein the charge decreases with the number of times the content data is used."

It is respectfully submitted that the cited references, either alone or in combination do not teach the above recitations of claim 30.

Specifically, in making the 103(a) rejection for claim 30, the Office Action asserts that *Matsuzaki* teaches "generating discount charge data specifying a charge for use of the content data, the use including at least one of reproducing or copying the content data." (Office Action, page 3). The Office Action also asserts that *Matsuzaki* discloses the elements of

"multiplexing the content data with the control message." (Office Action, page 3). Then, the Office Action acknowledges that *Matsuzaki* teaches neither multiplexing the content data with the control message by a first information processing apparatus to produce multiplexed data and transmitting the multiplexed data via the digital broadcast transmission, nor receiving and demultiplexing the multiplexed data by a second information processing apparatus to receive the control message. The Office Action turns to *Saitoh* to cure the admitted deficiency of *Matsuzaki*.

For at least the following reasons, it is respectfully submitted that *Matsuzaki* and *Saitoh* cannot be combined to obtain the feature of multiplexing the content data with the control message by a first information processing apparatus to produce multiplexed data and transmitting the multiplexed data via the digital broadcast transmission, where the control message includes discount charge data, as recited by claim 30.

First, *Matsuzaki* does not teach "multiplexing the content data with the control message", as asserted by the Office Action. (Office Action, page 3). The cited portion of *Matsuzaki* actually describes a prior art device demultiplexing the received information into "encrypted related information and scramble key and the scrambled pay information." (Col. 2, ll. 13-37).

Second, the identified portion of *Saitoh* does not cure the deficiency *Matsuzaki* because *Saitoh* only describes adding "[a] time stamp for reproducing the time interval" to a stream to be converted into a packet and transmitted through a digital signal bus." (Col. 5, ll. 10-35). Nowhere in *Saitoh* relates the time

stamp to discount charge data or to any other type of control data that is multiplexed to the content data.

In addition, *Saitoh* cannot be combined with *Matsuzaki* to obtain claim 30's feature of multiplexing the discount charge data to the content data at the transmitting apparatus. *Saitoh* adds the time stamp to the data stream at the transmitting apparatus. However, the charge data in *Matsuzaki*, if there is any, is generated by a charge calculating portion that resides on the receiving apparatus. Specifically, the portion of *Matsuzaki* relied by the Office Action states that "the charge calculating portion increases a discount rate of the charge for use of the pay information which is used frequently by referring to the use history when calculating the charge for use." (Col. 6, ll. 8-50). The charge calculating portion resides on a server that is a part of a receiving station that demultiplexes the received content data before generates the charge data, if there is any. (Fig. 1-3, col. 4, ll. 3-6). Claim 30, however, recites the opposite: the discount charge data is first generated and inserted into a control message, then the control message is multiplexed with the content data at a transmitting apparatus, then the multiplexed content data is transmitted to a receiving apparatus, where the receiving apparatus demultiplexes the content data and use the content data.

Furthermore, *Matsuzaki* does not teach the element of "inserting the discount charge data into a control message," as asserted by the Office Action. At best, the portion identified in *Matsuzaki* only describes including "a coefficient of basic charge" in an initialization command to the terminal information storing portion 252. (Col. 15, ll. 13-37).

In sum, *Matsuzaki* does not teach inserting the discount charge data into a control message or generating the discount charge data at the transmitting apparatus, and neither *Matsuzaki* nor *Saitoh* teaches multiplexing the content data with the control message. Therefore, it is clear that neither *Matsuzaki* nor *Saitoh* nor the combination teaches multiplexing the content data with the control message by a first information processing apparatus to produce multiplexed data and transmitting the multiplexed data via the digital broadcast transmission, where the control message is inserted with discount charge data.

The Office Action also acknowledges that *Matsuzaki* does not teach charging for the use of the content data at the second information process apparatus based on the discount charge data. The Office Action turns to *Garfinkle* to cure the admitted deficiency of *Matsuzaki*. The Office Action asserts that *Garfinkle* teaches "the charge decreasing and the limiting of the data to be provided to the user," and contends that *Garfinkle* is "a system that provides charging the use of content data from the control message to be decreased via the number of times the content is used." (Office Action, page 5). However, the cited portions of *Garfinkle* disclose nothing related to charge decreasing, or even charging for the use of the content data. (Col. 3 - 4).

For at least the reasons described above, it is respectfully submitted that the 103 rejection of claim 30 has been overcome and, therefore, should be withdrawn. For similar or at least similar reasons, it is also respectfully requested that the above 103 rejection of claim 41, 61 and 63 be withdrawn.

Claim 34 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Matsuzaki* in view of *Saitoh*, *Garfinkle*, and in further view of U.S. Patent No. 6,470,496 ("*Kato*"). Because claim 34 depends from independent claim 30 and the Examiner does not appear to have relied on *Kato* to overcome the above-described deficiencies of the applied combination of *Matsuzaki*, *Saitoh*, and *Garfinkle*, it is also respectfully requested that the above 103 rejection of claim 34 be withdrawn.

Claims 35-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Matsuzaki* in view of *Saitoh*, *Garfinkle*, and in further view of *Kato* and U.S. Patent No. 6,622,004 ("*Sonoda*"). For similar reasons to those described above with regard to claim 30 and 34, it is also respectfully requested that the above 103 rejection of claims 35-36 be withdrawn.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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